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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/811,205 | 03/17/2001 | Giordano Otelli | 70074 | 9181 |

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EXAMINER

CECIL, TERRY K

| ART UNIT | PAPER NUMBER |
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1723

DATE MAILED: 02/13/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,205

Applicant(s)

OTELLI, GIORDANO

Examiner

Mr. Terry K. Cecil

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 2 and 3 are objected to because of the following informalities: "by" should be deleted from line 3 in each of claims 2 and 3.

Appropriate correction is required.

Claim Rejections - 35 USC ' 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are rejected because of the following reasons:

- The following terms lack antecedent basis: "said usually open stop valve" (claim 1).
- In line 4 in each of claims 2 and 3, it is unclear whether one or two stop valves are claimed. Did applicant intend to claim "first and second stop valves inserted respectively into said first cold water transit sluice and said second hot water transit sluice"?

Claim Rejections - 35 USC ' 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Lund (Re. 24,255). Lund discloses a device that includes respective inlets (71, 72) for hot and cold water having a respective stop valves (84) and screens (col. 4, line 71) and a pressure balancer (77) [as in claim 1].

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Parkison (U.S. 4,243,063). Parkison discloses a device that includes respective inlets for hot and cold water having a respective stop valves (14, 17), a pressure balancer (16), and a filter (col. 5, lines 55-57) [as in claim 1].

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Barnum (U.S. 3,957,073). Barnum discloses a device that includes

- respective inlets (1, 2) for hot and cold water having a respective stop valves (the butterfly valves have the ability to fully close, see col. 8, lines 3-5) and screens (6, 7); and
- a pressure balancer (figure 2) [as in claim 1].

Claim Rejections - 35 USC ' 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

Determining the scope and contents of the prior art.
Ascertaining the differences between the prior art and the claims at issue.
Resolving the level of ordinary skill in the pertinent art.
Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnum in view of the German Reference (DE 3618174 A1), hereinafter “ ‘174”. Barnum has been expanded above and teaches all the limitations of claims 2 and 3 with the exception of a magnetic anti-limestone conditioner disposed along each of the sluices. ‘174 teaches a magnetic device for preventing the formation of lime deposits [as in claims 2 and 3]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the magnetic device of ‘174 in each of the inlets of the invention of Barnum since ‘174 teaches the benefits of (i) preventing the sedimentation of lime; (ii) breaking down existing lime deposits; and (iii) a device that can be used anywhere lime sedimentation problems exist. It is also obvious since Barnum recognizes problems associated with lime deposits (col. 1, lines 63-65).

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Priority

10. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Italy on 3-17-2000. It is noted, however, that applicant has not filed a certified copy of the Italian application as required by 35 U.S.C. 119(b).

Other Pertinent Art


11. Applicant may wish to consider the following germane references before amending the claims:

- Sundt (U.S. 3,941,700) also teaches a magnetic device for preventing mineral precipitation.

12. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (703)305-0079 for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:00a to 4:30p, on at least four days during the week M-F.
- The group receptionist can be reached at (703)308-0661 for inquiries of a general nature or those relating to the status of this or proceeding applications.
- Wanda Walker, the examiner's supervisor, can be reached at (703)308-0457 if attempts to reach the examiner are unsuccessful.
- Fax numbers for this art unit are as follows:
 - i. (703)872-9310 for *official* faxes (i.e. faxes to be entered as part of the file history) that are not after-final; and
 - ii. (703)872-9311 if after-final.

Joseph W. Drodge
JOSEPH W. DRODGE
PRIMARY EXAMINER

TKC 
February 11, 2002